

CITY OF BOX ELDER

ANIMAL CONTROL REGULATIONS

ORDINANCE #497

EFFECTIVE 8/27/2010

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BE IT ORDAINED by the Common Council of the City of Box Elder as follows:

ARTICLE I – PURPOSE AND JURISDICTION

SECTION 1 – PURPOSE AND REPEAL OF ORDINANCES.

Ordinance #497 is an ordinance regulating animals within the jurisdiction of the City of Box Elder. The Common Council of the City of Box Elder has deemed these regulations and controls to be reasonable and reasonably related to the needs of the residents of Box Elder and the surrounding area for the purpose of promoting the health, safety, and general welfare of the community. Therefore, to eliminate conflict with these regulations, Ordinances #8, 61, 162, 301, 310, and 374 of the Box Elder Municipal Code are hereby repealed in their entirety.

SECTION 2 – SEVERABILITY AND SEPARABILITY.

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

ARTICLE II – DEFINITIONS

For the purposes of this Ordinance, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive. The terms "used" or "occupied" as applied to any land or building shall be construed to include the terms "intended, arranged, or designed to be used or occupied".

ABANDONMENT: Giving up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party.

ANIMAL: Any mammal, bird, reptile, amphibian or fish, except humans.

ANIMAL CONTROL OFFICER: An Animal Control Officer shall be any person assigned to perform the duties required and set forth by this Ordinance.

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ANIMAL SHELTER: Any premises designated by the Council for the purpose of impounding and caring for animals.

AT LARGE: Any animal shall be deemed to be at large when it is off the property of its owner and not under the immediate control of a competent person.

CITY: The City of Box Elder, South Dakota.

COMMISSION: The Planning & Zoning Commission of the City.

COUNCIL: The Common Council of the City.

DANGEROUS ANIMAL: Any animal which, when unprovoked, in a threatening or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults, or otherwise attacks a person or animal upon the streets, sidewalks, or any public place; or any animal which, on private property, when unprovoked, in a threatening or terrifying manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.

FOWL: Any chicken, duck, goose, guinea fowl, poultry, turkey, or other domestic fowl.

KENNEL: Any premises or structure used for the purpose of temporary or long-term care of more than four (4) dogs or cats, or combination thereof.

LEASH: A cord, thong, or chain not more than ten feet (10') in length by which an animal is controlled by the person accompanying the animal.

LIVESTOCK: Any horse, cow, mule, donkey, swine, sheep, goat, buffalo, or llama.

MUZZLE: A device constructed of strong, soft material or of metal designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

OWNER: Any person, group of persons, or corporation who has a right of property in an animal, keeps or harbors an animal, or who has an animal in his care or acts as its custodian, or permits an animal to remain on or about any premises owned, leased, rented, or occupied by him.

PET: Any dog, cat, or other tame species of animal kept for purposes of domestication, companionship, or display.

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PIGEON: Any kind of pigeon, whether wild, kept as a pet, or kept for hobby purposes such as breeding, showing, or sporting.

PROPER ENCLOSURE: A secure confinement, as determined by an Animal Control Officer, indoors or in a securely enclosed or locked facility that is suitable to prevent an animal from escaping and to prevent any physical threat to the well-being of any person or other animal, while not constituting inhumane treatment.

RESTRAINT: An animal is under restraint if it is controlled by a leash; is confined within a vehicle in such a manner as not to allow it to reach outside the confines of that vehicle; or is attached or tethered to said vehicle; or is confined within an enclosure sufficient to keep said animal restrained from escaping such enclosure. An animal is under leash or is considered restrained only when the person bearing that leash is physically capable of effecting positive physical control and restraint of the animal at all times.

SERVICE DOG: Any dog owned by a law enforcement agency or police department which has been trained to aid law enforcement officers and is actually being used for law enforcement or rescue purposes or any dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons.

WILD ANIMAL: Any in, but not limited to, the following orders and families, whether bred in the wild or in captivity, and any animal hybrid resulting from the breeding of an animal that is a member of the following orders and families: Non-human primate and prosimians (e.g. chimpanzees, monkeys), Felidae (e.g. feral cats, lions, tigers, captive-bred cougars, jaguars, cheetahs, leopards, snow leopards, and clouded leopards except domesticated cats), Canidae (e.g. wolves, wolf hybrids, and foxes, but excluding domesticated dogs), Ursidae (e.g. bears), Proboscidae (e.g. elephants), Cetacea (e.g. whales, dolphins, porpoises), Crocodilia (e.g. alligators, caimans, crocodiles), Marsupialia (e.g. kangaroos, opossums), Reptilia over 2 feet in length and snakes and reptiles of the venomous variety, Perissodactyla (e.g. rhinoceroses, tapirs, not horses or donkeys, or mules), Artiodactyla (e.g. hippopotamuses, giraffes, camels, not cattle, buffalo, swine, sheep or goats), Hyaenidae (e.g. hyenas), Mustelidae (e.g. skunks, weasels, otters, badgers), Procyonidae (e.g. raccoons, coatis), Edentata (e.g. anteaters, sloths, armadillos), Viverridae (e.g. mongooses, civets, and genets), Pinnipedia (e.g. seals, sea lions, walruses), Struthioniformes (e.g. ostriches), or Anatidae (undomesticated ducks and geese).

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ARTICLE III – GENERAL REGULATIONS

SECTION 1 – ANIMALS AT LARGE.

It shall be deemed a violation of this Ordinance for any person who owns or who has under his care any animal to allow said animal to run at large. Any animal shall either be on a leash or tether controlled by a person, or properly secured to a leash which has been tied to an immovable object, or confined within an enclosure sufficient to keep said animal restrained from escaping such enclosure. No animal shall be leashed to an immovable object so as to permit the animal to walk on or over any public sidewalk or street, or any property of another person other than that of the owner of said animal. Any person that controls or restrains any animal by hand, leash, or tether shall be physically capable of effecting positive physical control and restraint of the animal at all times. Any animal not confined by leash, tether, or enclosure as set forth herein, is hereby declared to be running at large and is hereby declared to be a public nuisance.

SECTION 2 – ANIMAL ABANDONMENT.

It shall be deemed a violation of this Ordinance for any person to abandon any animal upon a public right of way, or upon the property of another, or upon property owned by that person.

SECTION 3 – DISTURBING THE PEACE.

It shall be deemed a violation of this Ordinance for any person owning or possessing any animal to suffer or permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, crowing, crying, or making other loud or unusual noises. It shall be the duty of any person in possession of any such animal which disturbs the peace and quiet to dispose of the disturbance even if disposing of the animal is the only effective means.

SECTION 4 – UNATTENDED ANIMALS IN STANDING/PARKED VEHICLES.

It shall be deemed a violation of this Ordinance for any person to leave an animal unattended in a standing or parked vehicle in a manner that endangers the health or safety of such animal. The owner or operator of a vehicle containing an unattended animal will be contacted if possible before reasonable force may be used to remove such animal by any Animal Control Officer, law enforcement officer, or agent/officer of a humane society. Removal of an unattended animal by an Animal Control Officer, law enforcement officer, or agent/officer of a humane society shall not constitute an offense, nor shall such person be held civilly or criminally liable for any damage caused by removing the animal from the vehicle.

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SECTION 5 – STRIKING AN ANIMAL WITH A VEHICLE.

Any person operating a motor vehicle that strikes a domestic animal shall stop at once and attempt to locate the animal's owner. In the event the owner cannot be ascertained and located, the operator shall at once report the accident to the appropriate law enforcement agency.

SECTION 6 – FIGHTS BETWEEN ANIMALS.

It shall be deemed a violation of this Ordinance for any person to willfully allow any animal to fight, worry, or injure another animal, nor shall any person keep any house, pit, or other place to be used in permitting any fighting, worrying, or injuring of animals, nor shall any person instigate or encourage any animal, bird, or fowl to attack, bite, wound, or worry another animal, bird, or fowl for any bet, stake, reward, or entertainment.

SECTION 7 – HARASSMENT OF A SERVICE ANIMAL.

It shall be deemed a violation of this Ordinance for any person to maliciously beat, injure, attempt to injure, harass, intimidate, entice, distract, or otherwise interfere with any service animal accompanying either a person with a disability or a law enforcement officer if the service animal is being controlled by the person.

SECTION 8 – ANIMAL EXCRETA.

The person charged with the care or control of any animal, except livestock in compliance with Section 14 (below), shall remove and dispose of in a sanitary manner any excreta deposited by such animal upon said person's property no less frequently than every three (3) days and upon any public or other person's private property immediately after excretion.

SECTION 9 – NUMBER OF DOGS AND CATS ALLOWED.

No person, or group of persons shall own, harbor, or keep more than four (4) dogs or four (4) cats, nor any combination of dogs and cats greater than four (4) in number, over the age of six (6) months old, at any one location (property or vehicles owned, rented, leased, or occupied by said person or group of persons) within the municipal limits of the City.

SECTION 10 – PACKS.

An Animal Control Officer, law enforcement officer, or agent/officer of a humane society shall have authority to destroy animals in packs which are actively chasing, barking, harassing, or attacking any livestock, animal, or human if, in his opinion, all other means of controlling or subduing the pack would fail. Two (2) or more animals shall constitute a pack.

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SECTION 11 – KENNELS PROHIBITED.

No person except a licensed veterinarian shall own, keep, or operate any kennel.

SECTION 12 – KEEPING OF WILD ANIMALS PROHIBITED.

No person shall own, keep, or maintain a wild animal(s) unless such animal is participating in a circus, menagerie, carnival, show, exhibition, or parade, provided that such animals shall only be allowed for said purpose for the length of time necessary to participate in said event.

SECTION 13 – FEEDING OF WILD ANIMALS PROHIBITED.

No person shall deliberately and knowingly feed any wild animal on any public or private property or public right-of-way when the placement of feed, bait, or other edible substance causes them to congregate or be drawn into an area.

SECTION 14 – LIVESTOCK.

- A. Livestock shall only be allowed on land: within an Agricultural Zoning District; on land within the municipal limits of the City in a Zoning District other than an Agricultural Zoning District where the Council has approved (and the owner is in full compliance with) a Conditional Use Permit for such livestock; or on land within Meade County (except land in the SW¼ of Section 8, T2N, R9E, B.H.M.) that is not zoned.
- B. Livestock that are found upon land within the municipal limits of the City not described in Section 14.A. (above) upon the effective date of this Ordinance are hereby allowed if all of the following conditions are met:
 - 1. Livestock shall be present on land owned by the owner of said livestock.
 - 2. The allowance is not transferable and will cease upon: the death, sale (or other transfer of ownership), or removal (for more than one (1) year) of each livestock animal; upon the violation of this Ordinance by the landowner; upon the death of the landowner(s); or upon the sale (or other transfer of ownership) or subdivision of the land by the landowner(s).
 - 3. That all livestock that will be eligible for such allowance shall have an identification chip inserted and shall be registered, in writing, with the City's Animal Control Officer within ninety (90) days of the effective date of this Ordinance.
 - 4. That the offspring of any livestock that are in compliance with such allowance will be allowed to reside on the property until weaned from the mother or for no more than one (1) year, whichever is sooner. Said offspring shall have an identification chip inserted and shall be registered with the Animal Control Officer within thirty (30) days of birth.

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- C. All livestock, except those on land used as sales pavilions, stockyards, slaughterhouses, locker plants, or truck terminals which must of necessity temporarily confine animals for the purpose of sale, slaughter, or transportation, other than those allowed in Sections 14.A. or 14.B. (above) are hereby deemed to be in violation of this Ordinance.
- D. No building or enclosure for use in sheltering or keeping of livestock shall be allowed within one hundred and fifty feet (150') of any dwelling or building used for human habitation other than that of the owner of said livestock.
- E. No person shall keep or maintain any land, building, or enclosure where livestock is kept unless said land, building, or enclosure is kept at all times in a clean, neat, and sanitary condition and free from substances that attract rodents or insects. It is deemed an unsanitary condition for pastures and grazing areas to be grazed or trampled to the extent that a majority of the grass is destroyed, resulting in bare or weed-infested ground.
- F. It shall be deemed a violation of this Ordinance for any person to fail to maintain fencing that is adequate to ensure that livestock remains on the owner's property.
- G. It shall be deemed a violation of this Ordinance for any person to drench or cause to be drenched with water any livestock while loaded in any vehicle or to clean or cause to be cleaned any vehicle used to carry livestock.

SECTION 15 – PIGEONS AND FOWL.

No person shall keep or cause to be kept upon any premises within the municipal limits of the City pigeons or fowl. Pigeons that are found upon property within the municipal limits of the City upon the effective date of this Ordinance are hereby allowed so long as they do not constitute a nuisance or create a hazard to public health and their loft area is kept at all times in a clean, neat, and sanitary condition that is free from substances that attract rodents or insects.

SECTION 16 – DESIGNATION OF PET AREAS IN PARKS.

The City Park Board is hereby authorized to designate areas within City parks or upon public ground as No Pet Areas or as Leash-Free Pet Areas. The Public Works Department shall post such areas as shall be required to give reasonable notice to the public. It shall be deemed a violation of this Ordinance for any person to permit any animal under his ownership or control to be present upon any park or public ground designated as a No Pet Area.

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SECTION 17 – INTERFERENCE.

Any person, who by using or threatening to use violence, force, or physical interference or obstacle, intentionally obstructs, impairs, or hinders the enforcement of the provisions of this Ordinance by an Animal Control Officer, a law enforcement officer, or agent/officer of a humane society is guilty of interference. Interference is hereby deemed to be a violation of this Ordinance.

SECTION 18 – FALSE REPORTING.

Any person who makes a report or intentionally causes the transmission of a report to authorities empowered herein of a violation of this Ordinance, knowing that it did not occur; or provides false information about any violation of this Ordinance, is guilty of false reporting.

SECTION 19 – UNAUTHORIZED RELEASE.

No person shall seek to release any animal in the custody of the Animal Control Officer, law enforcement officer, or agent/officer of a humane society except as herein provided.

SECTION 20 – OWNER LIABILITY.

The owner of any animal responsible for damage to person or property resulting from the actions of said animal shall be deemed liable for such damage. Should the City, its agents, contractors, or designees incur any costs for the investigation and enforcement of the provisions of this Ordinance, the owner of the offending animal or the offender, if the offense is against an animal or its owner, shall be deemed liable for such damage.

SECTION 21 – POLICE, MILITARY, AND RESCUE ANIMALS.

Nothing in this Ordinance shall be construed to limit, affect, or apply to the use of animals by law enforcement, military, or rescue organizations.

ARTICLE IV – RABIES CONTROL

SECTION 1 – KEEPING RABID ANIMALS PROHIBITED.

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to be infected with rabies.

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SECTION 2 – REPORT OF SUSPECTED CASES.

Any person who shall suspect any animal to be infected with rabies shall report said animal to the Animal Control Officer, describing the animal and giving the name and address of the owner, if known.

SECTION 3 – DESTRUCTION OF RABID ANIMALS.

Any animal displaying symptoms or characteristics of rabies may be destroyed by the Animal Control Officer, a law enforcement officer, an agent/officer of a humane society, or a veterinarian.

SECTION 4 – MUZZLING PROCLAMATION.

If the Animal Control Officer determines that there is danger of the existence or spread of rabies, the Animal Control Officer shall make the facts known in writing to the Mayor. The Mayor may, upon receipt of said facts, by proclamation in the interest of public safety, order all animals in the affected area to be muzzled when off the premises of the owner for a specified period of time. Forty-eight (48) hours after the publication of said proclamation, any animal found unmuzzled off the premises of the owner shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animal fail. All animals seized and impounded shall be held for observation for ten (10) days and, if cleared by a licensed veterinarian, may be claimed by the owner, and the owner must pay the expenses incidental thereto. Any animal not claimed may be disposed of in a humane manner.

SECTION 5 – QUARANTINE FOR OBSERVATION.

- A. When any person owning or harboring an animal has been notified that said animal has bitten or attacked any person, the owner must within twenty-four (24) hours place the animal under the care and observation of the Animal Control Officer and/or a licensed veterinarian for a period of not less than ten (10) days. However, in those cases when the owner has a current rabies vaccination for said animal, the Animal Control Officer may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement that he understands the responsibility and will assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.
- B. At the end of the ten (10) day observation period the animal shall be examined by a veterinarian and/or the Animal Control Officer, and if cleared, may be reclaimed by the owner. The owner must pay the expense incurred incidental thereto.

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- C. Any animal quarantined for observation, showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.
- D. When an animal under quarantine has been diagnosed as being rabid or suspected by a licensed veterinarian as being rabid and dies while under such quarantine, the Animal Control Officer shall ensure that the head of said animal shall immediately be sent to a competent laboratory for pathological examination. The Animal Control Officer shall notify the proper public health officer to report human contacts with, and the diagnosis made on, said animal.
- E. Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be immediately submitted by the Animal Control Officer to a competent laboratory for pathological examination. The Animal Control Officer shall notify the proper public health officer to report human contacts with, and the diagnosis made on, such animal.

ARTICLE V – VICIOUS ANIMALS

SECTION 1 – VICIOUS ANIMAL COMPLAINTS.

- A. An Animal Control Officer shall initiate an investigation to determine whether or not an animal is vicious upon receipt of: a written complaint from a community resident; an oral or written complaint from a physician, veterinarian, agent/officer of a humane society, or law enforcement officer; or based upon his own observations.
- B. The Animal Control Officer may impound the animal being investigated at any time during the course of the investigation if the Animal Control Officer determines that the preservation of public safety is best served by impoundment.
- C. An Animal Control Officer, law enforcement officer, or agent/officer of a humane society may use all necessary means to control a dangerous or vicious animal so as not to immediately jeopardize the health or safety of themselves or others.
- D. An owner of any animal having knowledge that his animal has caused injury, bitten, or is suspected of causing injury or biting a person shall immediately report the incident to the Box Elder Police Department.

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SECTION 2 – VICIOUS ANIMAL INVESTIGATION.

- A. The Animal Control Officer shall thoroughly investigate each complaint to determine if the animal is vicious. The Animal Control Officer shall initiate the investigation within two (2) business days (inclusive) of receiving the complaint.
- B. The Animal Control Officer shall consider all relevant factors including, but not limited to, the severity of injury to the victim, statements from the victim and/or witnesses, previous aggressive history of the animal, observable behavior of the animal, the ability of the animal to inflict injury to another animal or person, previous incidents of a similar nature, and circumstances of the incident.
- C. Upon initiating an investigation to determine whether or not an animal is vicious, the Animal Control Officer shall notify the owner of the animal that an investigation has begun. The notification shall be made either in person, by first class mail, or by posting the notification upon the front door of the owner's residence.
- D. An animal does not have to be declared to be vicious if an injury or damage is sustained to any person who was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime.
- E. At the conclusion of an investigation, but before his finding is issued, the Animal Control Officer shall review the results of the investigation with the Chief Code Enforcement Officer.
- F. At the conclusion of an investigation the Animal Control Officer may find:
 - 1. The animal is not vicious and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner upon payment of any impoundment fees and expenses; or
 - 2. The animal is vicious and order the owner to comply with the requirements for vicious animals and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner within seven (7) calendar days upon the owner providing proof of compliance and payment of any impoundment fees and expenses; or
 - 3. The animal is unredeemably vicious and order the animal to be destroyed. The owner is responsible for payment of any impoundment fees and expenses and the costs for destroying the animal.

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- G. If the Animal Control Officer cannot with due diligence locate the owner of an animal that has been impounded pursuant to this Section within seven (7) calendar days (inclusive), or if the owner of the animal has been notified that the animal has been determined to be vicious but has not secured the release of the animal within ten (10) calendar days (inclusive) of notification (exclusive of the time of appeal to the Council), then the Animal Control Officer may cause the animal to be destroyed.

SECTION 3 – NOTIFICATION OF FINDING THAT AN ANIMAL IS VICIOUS.

- A. The Animal Control Officer shall notify the owner within three (3) business days after concluding the investigation and issuing the finding concerning the animal's designation as a vicious animal. This notification may be in person and/or by certified mail and shall provide the specific restrictions and conditions for keeping the animal if the animal has been found to be vicious. The notice shall inform the owner that he may request a hearing to contest the finding and shall contain instructions on how to appeal the finding. Such a request for hearing shall be filed in writing with the Finance Officer within seven (7) calendar days (inclusive) of receipt of notification.
- B. The Animal Control Officer shall notify the complainant within three (3) business days after concluding the investigation and issuing the finding concerning the animal's designation as a vicious animal. This notification may be in person and/or by first class mail and shall provide the specific action to be taken if the animal has been found to be vicious. The notice shall inform the complainant that he may request a hearing to contest the finding and shall contain instructions on how to appeal the finding. Such a request for hearing shall be filed in writing with the Finance Officer within seven (7) calendar days (inclusive) of receipt of notification.
- C. The Animal Control Officer shall notify the Finance Officer and the Chief of Police within three (3) business days after concluding the investigation and issuing the finding concerning the animal's designation as a vicious animal. The notification shall describe the animal and specify any requirements or conditions placed upon the animal or owner.
- D. Failure of either the owner or the complainant to request a hearing within the prescribed time shall result in the Animal Control Officer's finding being a final determination.

SECTION 4 – APPEAL OF FINDING.

- A. The Council shall have the authority to review findings made by the Animal Control Officer. The Council shall convene as it deems necessary to hear appeals from an Animal Control Officer's findings.

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- B. If the owner or complainant files a written request as described in Section 3, the Council shall hold a hearing, preferably at a regular Council meeting, not less than two (2) nor more than ten (10) business days after the day of receipt of the appeal. The purpose of the hearing shall be to uphold, overturn, or modify the Animal Control Officer's finding. The Finance Officer, or his designee, shall provide notice of the date, time, and location of the hearing to the owner, the complainant, and the Animal Control Officer a minimum of two (2) calendar days prior to the hearing. The notification shall be made either in person, by first class mail, or by posting the notification upon the front door of the residence of the owner or complainant.
- C. At the hearing, all interested persons shall be given the opportunity to present evidence on the issue of the finding. Criteria to be considered in the hearing shall be all relevant factors including, but not limited to, the severity of injury to the victim, statements from the victim and/or witnesses, previous aggressive history of the animal, observable behavior of the animal, the ability of the animal to inflict injury to another animal or person, previous incidents of a similar nature, and circumstances of the incident.
- D. The Council shall issue a determination upholding, modifying, or overturning the Animal Control Officer's finding. This determination may be issued at the hearing or within three (3) calendar days after the hearing.
- E. A determination by the Council upholding the finding that the animal is vicious shall subject the animal and its owner to the provisions of Section 5 (below). A determination that the animal is unredeemably vicious shall result in the animal being destroyed no sooner than five (5) calendar days after the hearing.
- F. Failure of either the owner or the complainant to file an appeal to the Circuit Court within said five (5) calendar days after the Council's determination shall result in the Animal Control Officer's finding being a final determination.

SECTION 5 – REMOVAL OF A VICIOUS ANIMAL.

- A. It is deemed a violation of this Ordinance, and is hereby declared to be a public nuisance, for any person to keep within the City's jurisdiction an animal found to be vicious after the date of the Animal Control Officer's final determination.
- B. It is deemed a violation of this Ordinance for any owner to possess an unredeemable vicious animal. All animals determined to be unredeemably vicious shall be destroyed.
- C. It is deemed a violation of this Ordinance for any owner of a vicious animal to fail to comply with the requirements and conditions set forth in this Section.

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Any vicious animal found by an Animal Control Officer to be in violation of this Section shall be immediately seized and destroyed.

- D. Upon the third violation of this Section by one owner, the Finance Officer shall refuse to issue that owner any future Pet Licenses.

SECTION 6 – RETROACTIVITY.

No animal may be declared to be a vicious animal based solely on the animal's activity prior to the effective date of this Ordinance. However, the activity, including but not limited to substantiated reports of bites or aggressive behavior, may be considered during an Animal Control Officer's investigation.

ARTICLE VI – ABUSE AND NEGLECT

SECTION 1 – KILLING OF ANIMALS.

It shall be deemed a violation of this Ordinance for any person to willfully or maliciously kill any animal of any age or value except when necessary to protect the lives of any person or animal from being attacked by such animal. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this Ordinance. This section may not be construed to prohibit euthanasia conducted by the City or under the City's animal control activities.

SECTION 2 – ABUSE AND NEGLECT OF ANIMALS.

It shall be deemed a violation of this Ordinance for any person to willfully or maliciously wound, injure, mistreat, inhumanely beat, torture, deprive of necessary sustenance, drink, or shelter, or overload any animal of any age or value, in any way; or to engage in any act or omission whereby unnecessary, unjustifiable, or unreasonable physical pain or suffering is caused, permitted, or allowed to continue, including acts of mutilation; or to willfully or maliciously administer poison to any animal or to expose any such poisonous substance with the intent that the same shall be ingested by any animal.

SECTION 3 – SEIZURE OF ABUSED OR NEGLECTED ANIMALS.

An Animal Control Officer, law enforcement officer, or agent/officer of a humane society who finds an animal to be inhumanely treated shall, pursuant to a warrant or court order, cause the animal to be impounded or otherwise properly cared for, and the expenses of such impoundment or care shall be a lien on the owner of the animal to be paid before the animal may be lawfully recovered. However, a

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warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any abused or neglected animal is impounded or subjected to other action under this Ordinance without a court order, the officer or agent shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

ARTICLE VII – LICENSING

SECTION 1 – LICENSE REQUIRED.

It shall be deemed a violation of this Ordinance for any person to own, keep, maintain, or harbor or to have in his custody or under his control within the municipal limits of the City any dog or cat over the age of six (6) months without first having obtained a pet license from the City Finance Department or other designee of the Council. No pet license will be required for any pet that arrives and departs from the City within a thirty (30) day period if such dog or cat is licensed in another jurisdiction. A pet license shall not be transferable from owner to owner or from pet to pet.

SECTION 2 – LICENSE APPLICATION.

Any person desiring to keep, maintain, or have in his custody or control within the municipal limits of the City any dog or cat shall, within seven (7) days of acquiring such dog or cat and thereafter every two (2) years, submit to the City Finance Department or designee of the Council a Pet License Application. A valid rabies certificate shall accompany each application, stating the name of the veterinarian who administered the inoculation, the date it was given, and the length of time during which such inoculation will be effective, which shall be at least as long as the license period.

SECTION 3 – LICENSE FEE.

Each Pet License Application shall be submitted with a license fee according to the following schedule:

A. First pet:	\$ 5.00
B. Second pet:	\$ 5.00
C. Third pet:	\$ 10.00
D. Fourth pet:	\$ 15.00

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License fees are not refundable. Service dogs shall be exempt from the License Fee requirement.

SECTION 4 – COLLAR REQUIRED.

It shall be the duty of the owner of each licensed dog to place a collar around the neck of the dog to display the animal license issued to that animal.

SECTION 5 – ISSUANCE OF TAG.

It shall be the duty of the Finance Officer, or his designee, at the time of the issuance of a license under this Ordinance, to furnish and deliver to the applicant for such license a tag for each pet for which such license is issued. The number of the license shall be stamped or engraved on the tag. The Finance Officer shall keep a record of all tags issued.

SECTION 6 – REPLACEMENT TAG.

In the event of the loss of any tag issued under this Ordinance, the Finance Officer or his designee is hereby authorized to issue another tag upon payment of \$5.00 upon application being made that such tag has been lost.

ARTICLE VIII – IMPOUNDMENT

SECTION 1 – AUTHORITY.

An Animal Control Officer, law enforcement officer, or agent/officer of a humane society may impound any animal found within the City's jurisdiction that is found to be in violation of this Ordinance.

SECTION 2 – MICROCHIP IMPLANTATION REQUIRED.

Any dog that has been impounded for biting a person and subsequently released to its owner shall be implanted with a microchip prior to its release from impoundment, with the cost of implantation to be borne by the owner.

SECTION 3 – COST OF IMPOUNDMENT.

An impounded animal shall be released to the owner thereof upon payment to the City Finance Office, or designee of the Council, of the daily boarding cost plus the cost of any other services rendered (such as veterinary services or microchip implantation) plus an impoundment fee according to the following schedule:

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First violation:	\$25.00
Second violation within a twelve-month period:	\$50.00
Third and subsequent violations within a 12-month period:	\$75.00

SECTION 4 – NOTICE TO OWNER.

The Animal Control Officer, law enforcement officer, or agent/officer of a humane society who is impounding an animal shall notify, within twenty-four (24) hours of an animal being impounded, the owner of said animal if his identity and location can be obtained by reasonable means.

SECTION 5 – DISPOSITION OF IMPOUNDED ANIMALS.

- A. An impounded animal wearing a license or bearing other means of identification shall be impounded for a period of three (3) days, excluding Sundays and holidays and including the day of impoundment.
- B. An impounded animal not wearing a license or bearing other means of identification shall be impounded for a period of two (2) days, excluding Sundays and holidays and including the day of impoundment.
- C. If the owner of any impounded animal shall fail to redeem such animal during the impoundment period, then any other person may, upon complying with the provisions of this Article, redeem such animal from impoundment and be the lawful owner thereof.
- D. The Animal Control Officer or his designee may dispose of any impounded animal after the impoundment period by any humane means.
- E. The Animal Control Officer or his designee may dispose of any found or impounded animal that is sick or injured or is a feral cat without holding said animal for the entire impoundment period if the animal's condition is such that euthanization is the most humane manner to dispose of the animal.

SECTION 6 – RECORDS.

The Animal Control Officer shall keep accurate records of the investigation, impounding, and disposition of all animals coming into his custody and an accurate record of all animal bites.

ARTICLE IX – VIOLATIONS AND PENALTIES


A violation of any provision of this Ordinance or any amendment thereto, or failure to perform any act required hereunder, is a Class II Misdemeanor. In addition to any fine or penalty assessed by the court, any violator found guilty

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shall pay all court costs and expenses involved in the case. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Any violation of this Ordinance is hereby declared to be a public nuisance per se.

BE IT FURTHER ORDAINED by the Common Council of the City of Box Elder that this Ordinance shall become effective in accordance to law.

CITY OF BOX ELDER

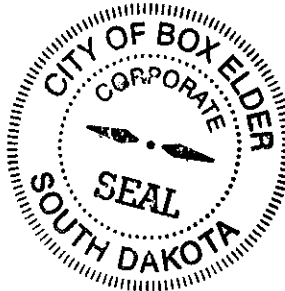


Mayor Alfred Dial

ATTEST:



Finance Officer Debbie Knapp



(SEAL)

P&Z Public Hearing: 6/28/10
Council Public Hearing: 7/20/10
First Reading: 7/20/10
Second Reading: 8/3/10
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